

Town of Frederick Board of Trustees



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AM 2009-077


REQUEST FOR APPROVAL OF THE PROPOSED ANNEXATION AND ZONING OF ORPHANED LAND AND RIGHTS-OF-WAY

Agenda Date: Town Board Meeting - September 8, 2009

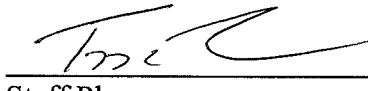
Attachments:

- a. Letter of Intent, Petition, and 11x17 plats of the proposed annexations and zoning (1 through 9) in sequential order
- b. Letter of Intent, Criteria response, 11x17 and plat for zoning a portion of Tipple Parkway
- c. Draft Planning Commission Minutes from August 18, 2009
- d. PCR-2009-014A through 023A recommending approval of the Annexation and Zoning
- e. Resolutions of the proposed annexation and zoning (1 through 9) in sequential order
- f. Ordinances of the proposed annexation and zoning (1 through 9) in sequential order
- g. Resolution of the proposed zoning (Tipple Parkway)
- h. Ordinance of the proposed zoning (Tipple Parkway)
- i. Vicinity Map

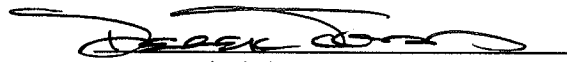
Fiscal Note: None noted


Finance Director *Assistant Finance Dir.*

Submitted by:


Staff Planner *SP*

Approved for Presentation:


Town Administrator

AV Use Anticipated

Projector X Laptop

Certification of Board Approval:

Town Clerk

Date

SUMMARY STATEMENT: On behalf of the Weld County Commissioners and the Town of Frederick, Mayor Eric Doering has requested annexation and zoning for 20.915 acres (17.715 acres of road right-of-way and 3.206 acres of orphaned land) at various locations in and around the Town of Frederick. In addition, 0.756 acres of previously annexed land will be zoned. The Board of Trustees accepted the annexation applications as complete and ready for consideration on July 28, 2009, establishing the hearing schedule for consideration of the request.

Staff finds that the proposed Annexation and Zoning meet the requirements of the Code and recommends approval.

The Planning Commission considered the request on August 18, 2009, voting unanimously to recommend approval of the request.

DETAIL OF ISSUE/REQUEST: The applicant has requested the annexation and zoning of nine orphaned areas of land / rights-of-way, and zoning for one area of previously annexed rights-of-way, as follows:

Annexation / Zoning 1:

2.181 acres consisting of 557 linear feet of road rights-of-way along Ridgeway Boulevard north of Tipple Parkway (CR16) and an additional 2,639 linear feet of road rights-of-way extending east from Ridgeway Boulevard (CR 15) along the north side of Tipple Parkway (CR 16) (SW ¼ S29, T2N, R67W), to be zoned Low Density Residential (R-1).

Annexation / Zoning 2:

0.827 acres consisting of 550 linear feet of road rights-of-way along Tipple Parkway (CR16) extending west from the I-25 frontage road (SE ¼ S27, SW ¼ S26, NW ¼ S35, NE ¼ S34, T2N, R 68W) to be zoned Business Light Industrial (BLI).

Annexation / Zoning 3:

1.071 acres consisting of 1,293 linear feet of road rights-of-way along Silver Birch Boulevard (CR 11) north of Godding Hollow Parkway (CR 18) (SW ¼ S24, T2N, R68W) to be zoned Low Density Residential (R-1).

Annexation / Zoning 4:

6.660 acres consisting of about one mile of road rights-of-way along Silver Birch Boulevard between Tipple Parkway (CR 11) and Godding Hollow Parkway (CR 18) (E½ S26, W½ S25 T2N, R 68W) to be zoned Low Density Residential (R-1).

Annexation / Zoning 5:

Annexation of 1.212 acres consisting of 2,640 linear feet of road rights-of-way along Godding Hollow Parkway (CR18) between Silver Birch Boulevard (CR 11) and Colorado Boulevard (CR 13) (SW¼ S24, N½ S25, T2N, R 68W); with multiple zoning proposed districts involving 4.388 acres Low Density Residential (R-1), 0.712 acres Neighborhood Commercial (C-N), 0.825 acres Public (P), and 0.262 acres Community Commercial (C-C) along the road rights-of-way.

Annexation / Zoning 6:

0.97 acres consisting of 1,106 linear feet of road rights-of-way along Colorado Boulevard (CR 13) just north of CO 52 (SW¼ S31, T2N, R67W) to be zoned Mixed Use Highway 52 (C-H52).

Annexation / Zoning 7:

3.2 acres of Town owned land just northwest of Milavec Lake (NE ¼ S 24, T2N, R 68W) to be zoned Public (P).

Annexation / Zoning 8:

0.406 acres consisting of 970 linear feet of road rights-of-way along Colorado Boulevard (CR 13) just north of Tipple Parkway (CR 16) (SW ¼ S 30, T2N, R67W) to be zoned Neighborhood Commercial (C-N).

Annexation / Zoning 9:

1.212 acres consisting of 1,319 linear feet of road rights-of-way along William Bailey Boulevard north of Majestic and west of Meadowlark Business Park (NE ¼ S25, T2N, R68W) to be zoned Business Light Industrial (BLI).

Zoning: The zoning for a 0.756 acre portion of Tipple Parkway to Low Density Residential (R-1) located between Colorado Boulevard and Oak Street (SW ¼ S30, T2N, R67W). The total area of orphaned land and rights-of-way annexed consists of about 20.915 acres while the total area of land and rights-of-way to be zoned consists of about 23.47 acres.

The intent of the annexation and zoning of these areas is to simplify jurisdictional boundaries, improve management and maintenance of public lands, and minimize confusion regarding Town boundaries and permitted uses (see attached map and plats).

Applicant: Eric Doering, Mayor, Town of Frederick

Agent: Jenn Simmons, Planning Director, Town of Frederick

Owner: Weld County and Town of Frederick

Surrounding Zoning / Land Uses: The proposed annexations and zoning encompass a combined 23.47 acres in various locations around Frederick. The surrounding Zoning and land uses are as follows:

Annexation / Zoning 1:

North	Undeveloped, Unincorporated Weld County, zoned Agricultural.
South	Developed, residential, Town of Frederick, Zoned R-1, and Undeveloped, Unincorporated Weld County, zoned Agricultural,
East	Undeveloped, unincorporated Weld County, zoned Agricultural.
West	Developed, Town of Frederick, Zoned R-1

Annexation / Zoning 2:

North	Undeveloped, Town of Frederick, Zoned BLI, and Interstate 25.
South	Developed, residential, unincorporated Weld County, zoned Agricultural, and Interstate 25.
East	Undeveloped, Town of Frederick, Zoned PUD-O and C-E,

West Undeveloped, Town of Frederick, Zoned R-1 with a Hazard overlay and BLI

Annexation / Zoning 3:

North Developed, residential, Town of Frederick, Zoned R-1
South Developed, residential, unincorporated Weld County, zoned Agricultural
East Developed, residential, unincorporated Weld County, zoned Agricultural
West Undeveloped, Town of Frederick, Zoned R-1

Annexation / Zoning 4:

North Developed, residential, Unincorporated Weld County, zoned Agricultural
South Undeveloped, Town of Frederick, Zoned R-2 and PUD-O,
East Developed, residential, Unincorporated Weld County, zoned Agricultural
West Undeveloped, Town of Frederick, Zoned R-1 and C-E, an unincorporated Weld County, developed, residential, zoned Agricultural

Annexation / Zoning 5:

North Developed, residential, Unincorporated Weld County, zoned Agricultural, and undeveloped, Town of Frederick, C-N with a PUD overlay, and P.
South Developed, residential, Unincorporated Weld County, zoned Agricultural, and undeveloped, Town of Frederick, Zoned C-C
East Developed, recreational, Town of Frederick Zoned Public
West Undeveloped, Town of Frederick, zoned C-E and R-1.

Annexation / Zoning 6:

North Undeveloped, Town of Frederick, zoned R-1,
South Undeveloped, Town of Frederick, zoned C-H52 / PUD-O,
East Undeveloped, Town of Frederick, zoned C-H52 / PUD-O,
West Undeveloped, Town of Frederick, zoned C-H52 / PUD-O,

Annexation / Zoning 7:

North Developed, residential, Town of Frederick, zoned R-1,
South Undeveloped, Town of Frederick, zoned R-1 and developed, recreational, Town of Frederick, zoned P,
East Developed, residential, Town of Frederick, zoned R-1,
West Developed, residential, Town of Frederick, zoned R-1,

Annexation / Zoning 8:

North Developed, commercial, Town of Frederick, zoned C-N,
South Highway 52
East Undeveloped, Town of Frederick, zoned R-1 with a PUD overlay
West Developed, commercial, and undeveloped, Town of Frederick, zoned C-N,

Annexation / Zoning 9:

North Undeveloped, unincorporated Weld County, zoned Agricultural.
South Developed, residential, Town of Frederick, zoned R-1,
East Undeveloped, Town of Frederick, zoned BLI
West Developed, residential, Unincorporated Weld County, zoned Agricultural

Zoning (Tipple Parkway Zoning):

North	Developed, residential, and undeveloped, unincorporated Weld County, zoned Agricultural.
South	Developed, residential, Town of Frederick, zoned R-1,
East	Undeveloped, Town of Frederick, zoned R-1,
West	Developed, commercial, Town of Frederick, zoned C-N,

Referral: The application was referred in accordance with the provisions of the Land Use Code to the applicable referral agencies, departments, and interests including the Town Attorney, Town Engineer, Special Districts, adjacent property owners, and Weld County. All referral responses are on file with the Planning Department and have been incorporated into the report as applicable.

No referral indicated conflicts with the request.

A few neighbors to some of the annexations have requested verification that the annexations consist only of road rights-of-way. Staff has worked with these adjacent property owners to verify that the annexations and zoning do not affect private property.

Neighborhood Meeting: A neighborhood meeting was held on March 23, 2009 with nine residents in attendance. The questions raised during that meeting include the following: Does my fence need to be moved? Will WCR 11 be a four lane road? Why can't the expansion of WCR 11 happen on the east side? Can the Town annex properties without the owners consent? Some residents of WCR 16.75 indicated a preference that it remain a dead end road.

In response, the neighbors were informed that that the rights-of-way annexation affect only dedicated rights-of-way, fence locations may or may not be the at the edge of rights-of-way. There are no current plans to widen any roads within Frederick, road improvements such as widening relate to the capacity of the road and site conditions. Improvements may be required as development occurs, however it is not currently anticipated, budgeted, or planned.

None of these annexations involve private property; therefore no one is being annexed without consent. Should additional rights of way be required, the Town will follow applicable processes as established by State Statute. The future status of CR 16.75 will be determined as development occurs and is not anticipated in the near future.

Public Notice: The public meeting was noticed in accordance with the provision of the Land Use Code.

Review Criteria: Article 13.2 of the Land Use Code establishes the criteria for annexations while section 4.7.2.d establishes the criteria for Zoning Amendments as follows:

Criteria for Annexation: Sec. 13.2 General provisions

1. **Annexation of lands to the Town shall be in accordance with this Code and the laws of the State in effect at the time of annexation and which may be amended from time to time, including but not limited to requests for zoning as provided for in Sections 3.2.4, 4.7.2, and 13.3 of the Land Use Code as well as the processes further described in Article 4 of this Code and other Sections as applicable.**
2. **The Board of Trustees may consider annexation of any land that satisfies the eligibility requirements of the statutes of the State as follows:**

- a. The area proposed for annexation has not less than one-sixth of its perimeter contiguous with the municipal boundaries;
 - b. A community of interest exists between the area proposed for annexation and the Town; the area is urban or will be urbanized in the near future; and said area is integrated with or is capable of being integrated with the annexing municipality.
 - c. The proposed annexation furthers the intent of the Comprehensive Plan.
3. If the Board of Trustees determines to proceed with annexation of property, the Board shall make such determination by resolution which shall include the public hearing date.
4. Except as otherwise provided, the full width of all public rights-of-way adjacent to a proposed annexation shall be included in the annexation.

Annexation 1: 2.181 acres of road rights-of-way along Ridgeway Boulevard north of Tipple Parkway (CR16) and road rights-of-way extending east from Ridgeway Boulevard (CR 15) along the north side of Tipple Parkway (CR 16).

Annexation 2: 0.827 acres of road rights-of-way along Tipple Parkway (CR16) extending west from the I-25 frontage road.

Annexation 3: 1.071 acres of road rights-of-way along Silver Birch Boulevard (CR 11) north of Godding Hollow Parkway (CR 18).

Annexation 4: 6.660 acres of road rights-of-way along Silver Birch Boulevard between Tipple Parkway (CR 11) and Godding Hollow Parkway (CR 18).

Annexation 5: 4.388 acres of road rights-of-way along Godding Hollow Parkway (CR18) between Silver Birch Boulevard (CR 11) and Colorado Boulevard (CR 13)..

Annexation 6: 0.97 acres of road rights-of-way along Colorado Boulevard (CR 13) just north of CO 52.

Annexation 7: 3.2 acres of town owned land just northwest of Milavec Lake.

Annexation 8: 0.406 acres of road rights-of-way along Colorado Boulevard (CR 13) just north of Tipple Parkway (CR 16).

Annexation 9: 1.212 acres of road rights-of-way along William Bailey Boulevard north of Majestic and west of Meadowlark Business Park.

The applications for annexation involve 17.715 acres of road right-of-way and 3.206 acres of orphaned land within the Town's Planning area. Each of the proposed annexations meet the 1/6th contiguity requirement. Currently, these areas are isolated remnants of land under the County's jurisdiction that are problematic for maintenance and management. To minimize conflicts between jurisdictions and provide consistent service in maintaining these areas, annexation is desired creating a community of interest between the Town and the areas to be annexed. Annexation also furthers intent of the Comprehensive Plan. Zoning is to be established as part of this process as required by the Code and further discussed below.

The application meets with the requirements for annexation as proposed.

Section 4.7.2.d of the *Land Use Code* sets the review criteria for amendments to the official zoning map:

Review Criteria. For the purpose of establishing and maintaining sound, stable and desirable development within the Town, the official zoning map shall not be amended except:

- (1) **To correct a manifest error in an ordinance establishing the zoning for a specific property;**
- (2) **To rezone an area or extend the boundary of an existing district because of changed or changing conditions in a particular area or in the Town generally;**
- (3) **The land to be rezoned was zoned in error and as presently zoned is inconsistent with the policies and goals of the Comprehensive Plan;**
- (4) **The proposed rezoning is necessary to provide land for a community-related use that was not anticipated at the time of the adoption of the Comprehensive Plan, and the rezoning will be consistent with the policies and goals of the Comprehensive Plan;**
- (5) **The area requested for rezoning has changed or is changing to such a degree that it is in the public interest to encourage development or redevelopment of the area; or**
- (6) **A rezoning to Planned Unit Development overlay district is requested to encourage innovative and creative design and to promote a mix of land uses in the development.**

- Zoning 1: 2.181 acres of road rights-of-way along Ridgeway Boulevard north of Tipple Parkway (CR16) and an additional 2,639 linear feet of road rights-of-way extending east from Ridgeway Boulevard (CR 15) along the north side of Tipple Parkway (CR 16) to be zoned R-1.
- Zoning 2: 0.827 acres of road rights-of-way along Tipple Parkway (CR16) extending west from the I-25 frontage road to be zoned BLI.
- Zoning 3: 1.071 acres of road rights-of-way along Silver Birch Boulevard (CR 11) north of Godding Hollow Parkway to be zoned R-1.
- Zoning 4: 6.660 acres of road rights-of-way along Silver Birch Boulevard between Tipple Parkway (CR 11) and Godding Hollow Parkway (CR 18) to be zoned R-1.
- Zoning 5: 4.388 acres of road rights-of-way along Godding Hollow Parkway (CR18) between Silver Birch Boulevard (CR 11) and Colorado Boulevard (CR 13); zoning between Silver Birch Boulevard and Colorado Boulevard to be R-1, C-N, P, and C-C.
- Zoning 6: 0.97 acres of road rights-of-way along Colorado Boulevard (CR 13) just north of CO 52 to be zoned C-H52.
- Zoning 7: 3.2 acres of town owned land just northwest of Milavec Lake to be zoned Public.
- Zoning 8: 0.406 acres of road rights-of-way along Colorado Boulevard (CR 13) just north of Tipple Parkway (CR 16) (SW ¼ S 30, T2N, R67W) to be zoned C-N.
- Zoning 9: 1.212 acres of road rights-of-way along William Bailey Boulevard north of Majestic and west of Meadowlark Business Park to be zoned BLI.
- Tipple Parkway: 0.756 acres, consisting of road rights-of-way along Tipple Parkway between Colorado Boulevard and Johnson Road to be zoned R-1.

This request is to zone orphaned land areas and rights-of-way related to the proposed annexations. The proposed zoning designations recognize surrounding zoning designations. They also zone an area or extend the boundary of an existing district because of changed or changing conditions in a particular area or in the Town generally (the annexation of orphaned land and rights-of-way); facilitate conformance with the policies and goals of the Comprehensive Plan; and promote the public interest by simplifying jurisdictional boundaries and maintenance. Therefore, the application meets with criteria 1, 2, and 5 for zoning. Note that only one of the criteria must be met for approval of the request.

The application meets with the requirements for zoning as proposed.

Planning Commission meeting summary: The Planning Commission considered the request on August 18, 2009. Three members of the public spoke to the matter. These parties indicated concern that the annexations might encroach onto private property, particularly along CR 11 and CR 18. Staff reiterated that the annexation of these areas is only for orphaned rights-of-way and that no private land is being impacted.

The Planning Commission voted unanimously to recommend approval of the Annexation and Zoning to the Board of Trustees.

Legal/Political Considerations: None noted.

Alternatives/Options:

ACTIONS: The Board of Trustees may consider the following options regarding the application:

- ☐ Approval of the request finding it is substantially in conformance with the provisions of the Land Use Code and Comprehensive Plan;
- ☐ Denial of the request with a finding that it does not substantially achieve conformance with the provisions of the Land Use Code and Comprehensive Plan;
- ☐ Approval of the request finding that it would be substantially in conformance with the provisions of the Land Use Code and Comprehensive Plan if certain conditions are met;

Staff Recommendation: Staff and the Planning Commission recommend approval of the proposed annexation and zoning of various orphaned land and rights-of-way to the Board of Trustees, as proposed.